

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

JAMES HOWARD SHIFFLETT,

Petitioner,

v.

**CIVIL ACTION NO. 3:05CV59
CRIMINAL ACTION NO. 3:99CR42-4
(BROADWATER)**

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert, dated April 25, 2006. Neither party filed any objections to the Report. After reviewing the above, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

The Court further **ORDERS**

- 1) the Report and Recommendation (**Document 5 in 3:05CV59 and Document 456 in 3:99CR42**) is now **ADOPTED**;
- 2) Petitioner's petition (**Document 1 in 3:05CV59 and Document 418 in 3:99CR42**) is now **DENIED** and **DISMISSED** as to Grounds One, Two, and Four; however,
- 3) the Clerk is **DIRECTED NOT** to strike this matter from the Court's docket, as the Magistrate Judge will be issuing an additional Report and Recommendation regarding Grounds Four and Five pending the outcome of the evidentiary hearing held on June 21, 2006.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 28th day of June 2006.



W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE